

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/747,428

Applicant(s)

VAIDYA ET AL.

Examiner

Sana Al-Hashemi

Art Unit

2164

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 March 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-24.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


Sana AL-Hashemi/
Primary Patent Examiner
Art Unit 2164

Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the prior art fails to disclose the limitation of "modifying one or more state attributes associated with said nodes to control merging and updating of layers to a resulting layered hierarchical database in response to said client request".

Examiner disagrees. First of all Applicant argues the specification which is not in the claims language, and this makes this argument invalid argument, since applicant argues the claimed subject matter and claimed in the claim language and not as defined in the specification. However, the Examiner will address the applicant argument in light of the specification to some extent. Applicant specifies the state attribute in the specification is "The state attribute has information relating to the last operation that was performed on its corresponding data element." Which could be a way identifying the change in the state attributes and since the claims are given the broadest reasonable interpretation, Examiner relied on Lee provisional application No. 60/182939 on page 5, 2nd paragraph Lee discloses a mapping elements in XML documents into the corresponding relational tables, the algorithm may use the metadata collected during schema migration to establish relationships among relational tables. Also, metadata may be augmented or updated during the data loading process. There are some properties of the data (e.g., physical ordering relationship) need to be collected and maintained in the database, while some metadata may be useful for query processing, e.g., which tables should be joined in order to answer certain queries, which corresponds to the claimed/argued limitation.

Applicant argues that the Lee "fails to disclose a state attribute that 'indicates a last action taken on a corresponding data element'".

Examiner disagrees. Lee provisional application discloses on page 21, 1.2 Our Approach the 4th bullet Lee discloses whenever there is a data update happened at the relational tables, the update is also reflected in the XML documents, and the XML documents are still valid, which corresponds to the claimed/argued limitation.

Applicant argues that the Lee fails to teach or suggest, "each one of said attributes includes a value of one of default, replaced, modified, and deleted."

Examiner disagrees. First of all, the attribute value is inherent in the XML and each attribute includes a default value. Further more on page 23, 5th paragraph, Lee discloses a Attribute-list declarations define the attributes of an element type. The declaration includes attribute names, default values and types, such as CDATA, NOTATION, ENTITY, etc.. Two special types of attributes, ID and IDREF, are used to define references between elements, which corresponds the claimed/argued limitation.

Applicant argues that the applied art fails to disclose the "plurality of nodes in a layered hierarchically organized database, and managing the nodes using XML state attributes."

Examiner disagrees. Nowhere in the specification Applicant disclose the state attributes comprises XML, format attribute. However, the XML and HTML both are mark up languages and replacing HTML with the XML may improve the web developers and designers performance by allowing the to create customized tags that offer greater flexibility in organizing and presenting information than is possible with the older HTML document coding system. XML a language standard published by the W3C and supported by the industry. Applicant is requested to points out where in the specification this limitation is defined.

Applicant argues that the reference applied fails to disclose the "each one of said state attributes includes a value of one of default, replace, modified, and deleted, indicating a last action taken on a corresponding data element".

Examiner disagrees. Refereeing to Col. 3, lines 24-34, Howland discloses the argued limitation.